

BEFORE THE BOARD OF SOCIAL WORK EXAMINERS

STATE OF IDAHO

In the Matter of the License of:)	
)	Case No. SWO-2007-22
CHERYL MILLER,)	
aka Cheryl Harriott,)	FINDINGS OF FACT,
License No. LSW-26019,)	CONCLUSIONS OF LAW AND
)	RECOMMENDED ORDER
Respondent.)	
_____)	

Having reviewed the Complaint and other documents in this matter, the Hearing Officer hereby enters the following Findings of Fact, Conclusions of Law, and Recommended Order:

FINDINGS OF FACT

1. Cheryl Miller aka Cheryl Harriott ("Respondent") is licensed by the Board under License No. LSW-26019 to engage in the practice of social work. Respondent's license expired on December 13, 2005, and Respondent's license was canceled as of December 14, 2005. Respondent has not renewed her license; however, pursuant to Idaho Code § 67-2614, Respondent retains the right to renew her license for up to five (5) years after cancellation by paying the required fees.

2. On September 16, 2008, a formal administrative Complaint was filed in this matter with the Board. Said Complaint is expressly incorporated herein and made a part hereof.

3. Copies of the Complaint, along with the Notification of Procedural Rights, were sent to Respondent on September 16, 2008, by means of the United States Mail, postage prepaid, both by certified mail, return receipt requested, and by regular mail. The mailings were addressed to Respondent at her address on file with the Bureau as well as her most recent known address as follows:

/ / /

Cheryl Miller
P.O. Box 251
Orofino, ID 83544

Cheryl Miller
10470 Highway 12
Orofino, ID 83544

4. The certified mail return receipt indicates that the copy of the Complaint sent by certified mail to Respondent's 10470 Highway 12 address was received at the address on September 19, 2008. In addition, the envelope containing a copy of the Complaint which was sent to Respondent by regular mail at that address was not returned to the sending office.

5. The Notification of Procedural Rights informed Respondent that, under statutes and rules applicable to such proceedings before the Board, Respondent needed to file a formal Answer to the Complaint within twenty-one (21) days of service of the Complaint and that failure to timely file an Answer to the Complaint or otherwise defend against the action would constitute a default and would be sufficient grounds for proceeding administratively against Respondent's license without the necessity of conducting a hearing.

6. On Nov. 6, 2008, a Notice of Proposed Default Order and Default Order, along with another copy of the Complaint and Notification of Procedural Rights, were sent to Respondent by means of the United States Mail, postage prepaid, both by certified mail, return receipt requested, and by regular mail, at the following address:

Cheryl Miller
10470 Highway 12
Orofino, ID 83544

7. Respondent failed to contest entry of the proposed Default Order within seven (7) days of service of the Notice of Proposed Default Order.

8. Concurrent herewith, a Default Order was entered against Respondent.

Therefore, the allegations contained in the Complaint on file in this matter are admitted as true without the necessity of conducting a hearing.

9. As detailed in the incorporated Complaint, Respondent, while a licensed social worker, did do the following:

a. In or about April 2005, while Respondent was employed with a family services agency, an individual called 911 regarding Respondent's driving. The Idaho State Police responded and the individual reported that she had witnessed Respondent driving across the center line into oncoming traffic and almost driving into a ditch on the wrong side of the road. Respondent had her juvenile daughter, as well as two juvenile clients, in her vehicle. Respondent informed the Idaho State Police officer that she was taking Lithium, Prozac and Klonopin. Respondent later told the officer she had also taken hydrocodone. The officer found three different dosage-strengths of hydrocodone in Respondent's car, as well as two different prescription muscle relaxants.

b. On or about October 4, 2005, Respondent pled guilty to two counts of misdemeanor injury to a child in State v. Miller, Nez Perce County Case No. CR-2005-2814. Respondent was placed on probation for two years and was ordered to enroll in counseling as directed by her probation officer.

c. On October 13, 2005, Respondent's baseline urinalysis test as part of her probation tested positive for methamphetamine.

d. On November 17, 2005, Respondent submitted a urinalysis test that tested positive for methamphetamine. When confronted, Respondent admitted to recently smoking marijuana and using methamphetamine.

e. During the investigation of this case by the Bureau of Occupational Licenses, the investigator discovered that in 1992 Respondent was convicted of possession of a controlled substance (marijuana), a misdemeanor, and in 1995 Respondent was convicted of use or possession with intent to use drug paraphernalia, a misdemeanor.

CONCLUSIONS OF LAW

1. As a licensed social worker in the State of Idaho, Respondent is subject to the jurisdiction of the Board and to the provisions of title 54, chapter 32, Idaho Code.

2. The Complaint was sent to Respondent at the address on file with the Board. Respondent was duly and lawfully given notice of proceedings against her license pursuant to the provisions of IDAPA 04.11.01.055.

3. Respondent's failure to plead or otherwise defend in this action authorizes the Board, pursuant to Idaho Code § 67-5242(4) and IDAPA 04.11.01.700, to enter an Order of Default which is as lawful as if all the allegations in the Complaint were proved or admitted at a hearing.

4. Respondent's acts as described in the Complaint constitute grounds for discipline against Respondent's license to practice social work under the laws governing the practice of social work in the State of Idaho, specifically Idaho Code §§ 54-3211(2) (addiction to habit-forming drugs) and/or 54-3211(6) (unprofessional conduct) and Board Rules (IDAPA 24.14.01) 450.01.g (social workers shall not violate a position of trust by knowingly committing any act detrimental to a client), 450.02.b (social workers shall not undertake any activity in which their personal problems are likely to lead to inadequate performance or harm to a client), and/or 450.02.c (social workers shall not practice while impaired by medication, alcohol, drugs or other chemicals).

ORDER

Based upon the foregoing, it is the recommendation of the Hearing Officer that the Board take such action as it deems appropriate consistent with the Findings of Fact and Conclusions of Law stated above.

DATED this 3rd day of December, 2008.



Jean R. Uranga
Hearing Officer

NOTICE OF DUE PROCESS RIGHTS

This is a recommended order of the Hearing Officer. It will not become final without action of the Board. Any party may file a petition for reconsideration of this recommended order with the Hearing Officer issuing the order within fourteen (14) days of the service date of this order. The Hearing Officer issuing this recommended order will dispose of any petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. *See Idaho Code § 67-5243(3).*

Within twenty-one (21) days after (a) the service date of this recommended order, (b) the service date of a denial of a petition for reconsideration from this recommended order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this recommended order, any party may in writing support or take exceptions to any part of this recommended order and file briefs in support of the party's position on any issue in the proceeding.

Written briefs in support of or taking exceptions to the recommended order shall be filed with the Board. Opposing parties shall have twenty-one (21) days to respond. The Board may schedule oral argument in the matter before issuing a final order. The Board will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties and for good cause shown. The Board may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order.

CERTIFICATE OF SERVICE

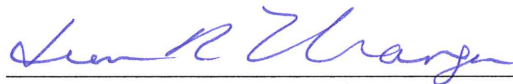
I HEREBY CERTIFY that on this 3rd day of December, 2008, I caused to be served a true and correct copy of the foregoing by the following method to:

Cheryl Miller
10470 Highway 12
Orofino, ID 83544

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☒ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☐ Statehouse Mail

Emily A. Mac Master
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☐ Statehouse Mail



Jean R. Uranga
Hearing Officer